

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16392 of 2008

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1. Radheshyam Mishra Son of Sri Rama Shankar Mishra Resident of Village and Post Office- Kehuria, Police Station- Shikarpur, Block Narkatiya Ganj.
 2. Arun Kumar Sharma Son of Sri Jagarnath Sharma Resident of Village and Gram Panchayat- Rampurwa Mahanawa, Police Station and Block- Majhaolia.
 3. Hari Narayan Singh Son of Sri Singheswar Singh Resident of Village and Post Office- Bhabhtan, under Gram Panchayat- Bhabhatan Gopalpur, Police Station- Sathi.
 4. Safedar Ali Son of late Julbikar Ali Resident of Village- Khairatian Baldianwa, Post Office- Shivrajpur, Under Gram Panchayat- Siswan Bhumihaar, Police Station- Nawalpur, Block- Jagdapatti.
 5. Mahmood Alam Son of Sekh Makshood Alam Resident of Village- Basantpur, Post Office, Block and Police Station- Mainatand.
 6. Baliram Sah Son of Sri Puran Sah Resident of Village- Shanwala Pakari, Post office and Gram Panchayat- Chutta, Police Station -Manipur, Block Maintand.
 7. Laleshwar Prasad Son of late Jitu Mahto Resident of Village- Hariapakar, Post Office- Gurwalia, Gram Panchayat- Tunia Bishanpur, Police Station- Mainpur, Block- Chanpatti. All petitioners belongs to the District of West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj, Department Govt of Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Secretary to the Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate West Champaran at Bettiah.
5. The Deputy Development Commissioner, West Champaran at Bettiah.
6. The District Panchayat Officer, West Champaran at Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy



For the Respondent/s : Mr. (GP21)

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

RESERVE JUDGMENT

Date : 04-05-2018

Heard learned counsel for the parties.

In the present case, the petitioner has made a prayer for quashing the letter no. 3778 dated 5.8.2008(Annexure-1) issued by the Secretary to the Commissioner, Tirhut Division, relating to earmark 12 posts to the scheduled caste candidates and 8 posts for the backward category on account of approving the roster de-hors to the law laid down by the Hon'ble Supreme Court in R.K. Sabharwal & Ors. Vs. State of Punjab & Ors. (AIR 1995 SCW 1371) and the circular issued by the State Government vide Memo No. 117 dated 30.9.2005, after completion of the quota to reserve category the roster of vacant post, will cease to operate of that category, till the date any vacancy caused in the quota of such reserve category and their impugned order 3 Scheduled Castes and 6 Backward Class persons shown as excess to their quota in the Panchayat Sewak cadre and those post will be filled up from the Unreserved Category in view of an order passed by Hon'ble Court in a similar matter dated 9.9.1997 passed in C.W.J.C. No. 4947 of 1997 and further give direction, the selection made on the post of Panchayat Sewak on the basis of above said roster on 8.9.2008 but again modified to the extent filling up of the post, earmark to the



backward class and Scheduled Castes of General Category, on the basis of adopting the procedure of roster-cum-seniority of Dalpaties not treating the Seniority List of Dalpati as merit list in view of the order passed by this Hon'ble Court in the similar matter dated 28.7.1995 passed in C.W.J.C. No. 1652 of 1994 and to consider the case of petitioners against those post as per their seniority under General Category, later on I.A. No. 8240 of 2017 has been filed making a prayer for quashing the memo no. 396 dated 24.2.2009, memo no. 1195 dated 20.7.2009, memo no. 515 dated 6.11.2010 and memo no. 2815 dated 11.6.2008, whereby and whereunder, the Government has given guideline for the purpose of appointment to the post of Panchayat Secretary and having limited the posts for absorption of 531 Dalpatis.

In nutshell, a prayer has been made in the writ application that the petitioners have wrongly been deprived of absorption to the post of Panchayat Sevak in turn Panchayat Secretary as they were all Dalpatis posted in the district of West Champaran at Bettiah in different Gram Panchayats who were appointed by the competent authority, the Executive Committee of Gram Panchayat, approved by the District Panchayat Officer, West Champaran.



All the petitioners have either the qualification of Matric or higher qualification, were given the training in Central Training Institute, Brambey at Ranchi and they were/are trained Dalpatis. The Government of Bihar has written a letter to all District Magistrate vide Memo No. 5448 dated 24.6.1989 (Annexure-2) with respect to the manner the post of Panchayat Sevak would be filled up wherein detail narration has been mentioned that in the State, there were 11753 retrenched employee, for their adjustment, 11338 posts were sanctioned, for rest 415 Gram Panchayats were newly constituted Gram Panchayats where the post of Panchayat Sevak was being created. Already 11338 posts are sanctioned, against that 671 posts were standing vacant and it was essential to fill up all vacant posts. In the said instruction, certain procedure, qualification and conditions have been postulated who could be appointed as Panchayat Sevak wherein it is provided that the minimum qualification for the Panchayat Sevak is Matriculate and it has been mentioned that trained Dalpatis are to be appointed. Those who have taken training for two years but for reserved category candidates, scheduled castes, scheduled tribes, two years of experience will be waived later, would be sent for training, if any post remains vacant will be filled up by direct recruits, 40 years



upper limit has been provided for the unreserved categories and 43 years is the maximum limit for the scheduled castes and scheduled tribes and minimum age for direct entry was 21 years, maximum 30 years for unreserved category candidates and 35 years for scheduled caste and scheduled tribe candidates. In the meantime, the Bihar Staff Selection Commission Act came into operation, accordingly, the Commission was constituted vide letter no. 2157 dated 15.7.2003 stating that for appointment of Panchayat Sevak can only be made on the recommendation of the Staff Selection Commission. In spite of availability of vacancy, the authorities were sitting tight over the matter and they were not taking effort for filling up the post of Panchayat Sevak, thereby depriving the Dalpatis for their absorption as Panchayat Secretary, compelled them to approach this Court in C.W.J.C. No. 15200 of 2004 which was disposed of in terms of the order passed in C.W.J.C. No. 7652 of 2002, direction of this Court would be dealt with at the later stage. The order of the Hon'ble single Judge passed in C.W.J.C. No. 7652 of 2002 was challenged before the Division Bench in L.P.A. No. 1042 of 2005 unsuccessfully and the same was again tested in S.L.A. (Civil) CC No. 639 of 2007 which was also dismissed. Even after the unsuccessful effort of the State Government, the State and its authority failed to proceed



with filling up vacant posts of Panchayat Sevak for implementation of that order, M.J.C. No. 705 of 2007 was filed whereafter the Department of Panchayat Raj vide letter no. 1561 dated 28.3.2008 (Annexure-4) addressed to all the District Magistrates wherein it has been directed for carrying out the order passed by this Court wherein it has been mentioned that the selection process of Dalpatis to the post of Panchayat Sevak in turn Panchayat Secretary having been delineated in the letter no. 5448 dated 24.6.1989 (Annexure-2).

According to that, the seniority list, district-wise Dalpatis, has to be prepared and the appointment cum absorption will be made according to the seniority and following the reservation policy and directed that the action should be carried out within one month and failure to do, will entail initiation of contempt proceeding. In pursuance thereof, the seniority list was prepared of Dalpatis of West Champaran in which the name of the petitioners are standing at serial nos. 56, 97, 60, 62, 77, 88 and 94 respectively. As per petitioner, 69 posts of Panchayat Secretary were identified to be vacant up to March, 2008 in the district of West Champaran. A grievance has been raised that the Commissioner has allocated extra 12 posts to scheduled castes and 8 posts for the backward class whereas these posts should have



been earmarked for unreserved category candidate, in terms of the administrative instruction vide Memo No. 117 dated 30.9.1995 wherein it has been provided that the reservation has to be made in terms of the judgment reported in R.K. Sabharwal case reported in 1995 SCW 1371. To fortify his submission, the petitioners have placed reliance on the judgment passed by this Court in C.W.J.C. No. 4947 of 1997 Ram Narayan Rai Vs. State of Bihar & Ors. which was disposed of on 9.9.1997 (Annexure-7) wherein this Court has held that the moment the quota is filled up, the roster will not remain operational, in event any vacancy arises on account of retirement/promotion/death or some other reasons then such post would be filled against that category which has fallen vacant and the Court has quashed the decision of the Selection Committee dated 12.3.1997 whereby direction was given to carry forward the vacancy of scheduled castes and backward category beyond their quota having based on the principle laid down in the case of R.K. Sabharwal case (supra). On the strength of the aforesaid judgment, the petitioners have challenged the allocation of posts to the scheduled castes and backward castes, as having stated, their absorption is beyond their permissible quota under the reservation policy, further has taken a plea that the absorption or appointment in category-wise will not be made on the basis of



seniority but, will be made according to the casts they belonged to and in support of the submission, he has placed reliance on the judgment passed in C.W.J.C. No. 1652 of 1994 wherein the question arose about the appointment of Panchayat Sevak in order of seniority taking into consideration the provision of reservation. The contention was raised that the person from the reserved category are senior, will be treated to have been appointed against the unreserved quota and, whereafter, according to the quota, they will again be adjusted as Panchayat Sevak. This submission was rejected having held that the merit test competing with general category applies to competitive examination as a person belonging to reserved category competes on the basis of merit would not be treated to have occupied quota of reserved category but, his selection on merit would affect adversely on the number of posts to the reserved category, but this principle does not apply in a case where no competitive examination is the basis of selection and the promotion is on the basis of seniority. So, in nutshell, the decision has been propounded that even though the person from the reserved category is a senior but their accommodation will be to the respective quotas. Placing reliance on those principle, learned counsel for the petitioner has submitted that the persons who are



in excess of the quota, they should be replaced by these petitioners as they have wrongly been deprived their absorption.

In the counter affidavit, the State has placed reliance on the letter dated 396 dated 24.2.2009 (Annexure-A) wherein it has been provided that in terms of the government letter no. 281 dated 11.6.2008 (Annexure-D) and letter no. 2610 dated 20.8.1998 (Annexure-C), the extra post of Panchayat Sevak created has to be filled up by Panchayat Sevak reflects no extra post has been created in the district of West Champaran, in the result, no appointment of Panchayat Sevak could be made. Further the State has placed reliance on the letter no. 1125 dated 20.7.2009 (Annexure-B) wherein placing reliance on the letter dated 24.2.2009 indicates no appointment of Panchayat Sevak from Dalpati is to be made. Further supplementary counter affidavit has been filed annexed the order dated 6.11.2010 (Annexure-C) passed by the District Magistrate-cum-Chairman, District Selection Committee disposed of the representation which was filed in pursuance of C.W.J.C. No. 13739 of 2003. From that letter, it appears that only 531 posts were available in the entire State of Bihar for the absorption of the Dalpatis. In the said letter, reliance has been placed on the judgment in the case of *Subhash Chandra Shukla & Ors. Vs. The State of Bihar & Ors.* reported in



2009 (4) PLJR 569 wherein the Court has limited 531 posts of Dalpatis would be promoted/absorbed to the post of Panchayat Secretary/Sevak in different Panchayats of the State of Bihar. So the plea has been taken by the State that the absorption/promotion of Dalpatis could be made only to the extra post created in different districts of the States as no post was created in the West Champaran. So the absorption of these petitioners does not arise and their claim has rightly been disallowed.

Per contra, learned counsel for the petitioners has submitted that the present case should not be governed by the judgment of the case of Subhash Chandra Shukla (*supra*) rather it will be governed by the judgment passed in the case of Amod Kumar Singh & Ors. Vs. State & Ors. reported in 2005 (2) PLJR 1 wherein no such limitation has been provided for the absorption of Dalpatis but, Dalpati all in number who were working in different districts including West Champaran was/is required to be absorbed and, whereafter, the petitioners have filed I.A. No. 8240 of 2017 challenged different letters as mentioned herein above whereby and whereunder 531 posts in number has been confined for absorption of Dalpatis to the post of Panchayat Sevak/Secretary.

To deal with this question, this Court will have to see the different notifications and letter issued by the State of Bihar to



different authorities in what manner and what treatment would be given the Dalpatis for their appointment as Panchayat Sevak/Secretary and the relevant judgments dealing with the issue has to be gone into. So it will be proper first to deal with the different notifications/letters issued from time to time, thereafter, and the judgments passed by this Court. To deal with this issue, it is relevant to consider the letter no. 5448 dated 24.6.1989 (Annexure-2) which shows the policy decision of the State Government that Dalpati would be appointed/absorbed as Panchayat Sevak in the undivided State of Bihar. The Government, vide letter dated 9.7.1996, directed for preparation of seniority list of Dalpatis for appointment of Panchayat Sevak. The letter no. 2610 dated 20.8.1998 shows 843 posts for undivided State of Bihar were identified for absorption of Dalpatis to the post of Panchayat Sevak/Secretary and, accordingly, the seniority was prepared of the Dalpatis district-wise including the district of West Champaran. The aforesaid letter dated 20.9.1998 (Annexure-C) reflects that after the reorganization, total 12181 Panchayats are/were standing, altogether 11308 Panchayat Sevaks were working, only 843 extra posts were available for absorption as Panchayat Sevaks. Excess Panchayat Sevak will be transferred and adjusted in another district where the vacancy would be found



existing. In the said letter, a chart has been attached which shows that in the district of West Champaran, extra 8 Panchayat Sevaks were found working, were to be adjusted in other districts. So there was no vacancy for adjusting the Dalpatis. The communication no. 2815 dated 11.6.2008 (Annexure-D/Annexure-16) shows that as per direction of the High Court passed in C.W.J.C. No. 7652 of 2002 (Amod Kumar Singh & Ors. Vs. State & Ors.) and different contempt applications, wherein it has been mentioned that in the Panchayat Raj Act, 1993 and Panchayat Raj Act, 2006, every Gram Panchayat should be attached with Panchayat Secretary and there is no post of Panchayat Sevak. In order to carry out the order passed by this Court, the Cabinet Minister of the State of Bihar decided to create 843 posts which reflects from letter no. 2610 dated 20.8.1998 but, after division of the State of Bihar, the post has been reduced to 531 and the appointment has to be made on the basis of seniority as has been directed in the letter dated 5448 dated 24.6.1989. In pursuance thereof, two letters have been issued, the first letter no. 396 dated 24.2.2009 (Annexure-A) and another letter no. 1125 dated 20.1.2009 (Annexure-B) wherein instruction of the State Government has been mentioned that no appointment of Dalaptis to the post of Panchayat Sevak is to be made. So all the



notifications which have been stated herein above shows that in view of the direction of this Court in terms of the order passed in the case of Amod Kumar Singh (supra) which was affirmed up to the Hon'ble Apex Court and to implement the order, the Government has created 843 posts for entire State of Bihar but, after its division, it remained to 531 and further the policy has been taken that after re-organization, if any surplus Panchayat Sevaks are identified, they will be shifted and adjusted to those districts where there is a deficit of Panchayat Sevak. So in nutshell, the entire notifications shows that as per the policy derision, the appointment has to be confined to 531 Dalpatis who can be appointed to the post of Panchayat Sevak/Secretary.

Before arriving to a final conclusion, it will be relevant to examine the judgments reported in Amod Kumar Singh (supra) as well as the judgment in the case of The State of Bihar & Ors. Vs. SubhashChandra Shukla & Ors. reported in 2009 (4) PLJR 569.

In the case of Amod Kumar Singh (supra), Dalpatis have approached this Court with a prayer for their absorption as Panchayat Sevak wherein the Court has recorded that the Dalpatis were getting the stipend of Rs. 175 per month, they have made a prayer for their absorption to the Panchayat Sevak and that case



was related to the Gopalganj District. The claim was made that Panchayat Sevak should be appointed in any Gram Panchayat to carry out the duty and responsibility of Panchayat enshrined in schedule-11 of the Constitution of India. In compliance of the order passed in C.W.J.C. No. 11008 of 1996, the State of Bihar recommended for sanction of 843 posts of Panchayat Sevak in the scale of 975-540. The post would not be filled up on account of financial stringency as the Government has imposed ban on the appointment of Class-3 and Class-4 post including the post sanctioned under the non-plan head which was reiterated from time to time by different circulars and letters wherein it has been provided that in the event of necessity of requirement to be filled up of Class-3 and Class-4 post, the Secretary of the concerned Department had to take approval before making such appointment from the Finance Department of the State of Bihar. 19 Dalpatis were recommended for the appointment after the roster clearance from the office of Divisional Commissioner and the District Magistrate had requested, the Director, Panchayati Raj to obtain finance clearance from the Finance Department to fill up the vacant post of Panchayat Sevak. On account of continuation of the financial stringency, the Government has decided that the Panchayat Sevak cannot be appointed and the decision was taken



that additional charge was given to Halka Karamchari to discharge the duty and function of Panchayat Sevak. The Government framed the recruitment rules which was names as Bihar Gram Panchayat (Appointment, Powers and Duties of Secretary) Rule, 2003 which was made effective retrospectively with effect from 27.1.2001. According to the rule, the process of selection and function and duties of the Secretary having been mentioned. In the meantime, the ban for appointment of Class-3 and Class-4 posts was withdrawn on account of good financial condition of the State of Bihar. On the enforcement of the new rule, the petitioners of that case, who were holding the post of Dalpati, were not found within the zone of consideration for appointment. The Court has recorded that Dalpaties were waited for their turn, instead of giving them the benefit, making rule retrospective having been denied their absorption to the post of Panchayat Sevak. One of the question was raised about the retrospectivity of the aforesaid Rule 2003. On account of its retrospectivity, they were ousted from the zone of consideration. The Court has examined Section 121 and 142 of the Panchayat Raj Act, 1993 which prescribes for giving reason and placement of rules on the floor of the House of Legislature which was found that neither the reason has been given for making retrospective nor the said rule was placed on the



floor of House of Legislature. So having declared that the rule has a prospective applicability and this view has been affirmed up to the Hon'ble Apex Court. So in this case, the only issue was decided about the consequence of withdrawal of the ban and applicability of the rule as aforesaid from retrospectivity and the Court has held that when financial condition of the State has improved and the ban has been removed making the rule retrospective cannot be a tool for depriving their absorption as Panchayat Sevak.

In the case of Subhash Chandra Shukla (supra), wherein this Court has considered the Panchayat Raj Act, 1947, 1983 and 2006 including the 73rd amendment of the Constitution which entails the insertion of chapter for the Panchayat and Municipality and held that the persons who were discharging the duty of Dalpati cannot be compared with the duty and function of the Panchayat Secretary. As the Dalpati is a morphos body, he cannot be said to be holding the civil post whereas the Panchayat Secretary is appointed by the State of Bihar and, as such, Dalpatis can not be compared with Panchayat Secretary, there cannot be any occasion for their absorption as Panchayat Secretary but, because of the order passed by this Court, the Council of Minister, in order to implement the order created 843 posts for combined



State of Bihar and that was reduced to 531 and it has been held that the appointment can be only confined to 531. It will be relevant to quote paragraph nos. 13, 14, 15 and 16 which reads as follows:-

“13. It is evident on a plain reading of the relevant provisions of the 1993 Act as well as the present 2006 Act, that all able-bodied persons of a village between the age of 18 and 30 years shall be members of the Dal. The same shall be headed by a Dalpati. The organization, utilization, and duties and functions of Gram Raksha Dal and the Dalpati shall be provided in the Rules. It is evident on a plain reading of Section 33 of the two Acts, which are identical, that the Dal is an amorphous body of all able-bodied persons of the Panchayat between the age of 18 and 30 years to take care of general watch and ward and for emergent situations illustratively mentioned therein. It has been held by one of us sitting singly (S K Katriar,J.), in the judgment in the case of Vijay Shankar Pathak vs.State of Bihar [2007(3) PLJR 621], that a Dalpati is not the holder of a civil post. The provisions of section 32 have to be read in juxtaposition wherein it is provided that there shall be a Panchayat Secretary under Gram Panchayat to be appointed by the State Government. Section 32 of the 1993 Act provides that the Secretary of every Gram Panchayat shall be appointed by the State Government and he shall perform the duties, and exercise powers conferred upon him, under the Act or any Rules or bye-laws made thereunder. We notice a



significant change in section 32 of the 2006 act which provides that there shall be a Panchayat Secretary in Gram Panchayat to be appointed in the manner as may be prescribed. This envisages promulgation of Rules thereunder. The State Government has indeed issued 2003 Rules, which provides the duties and functions of the Panchayat Secretary. Furthermore, the Staff Selection Commission Rules (SSC Rules, in short) provide for appointment of the Panchayat Sewaks by the Staff Selection Commission. It is relevant to state that the SSC Rules were issued on 31.5.2003, and yet used the expression 'Panchayat Sewak', though the expression 'Panchayat Sewak' does not occur in 1993 Act. We wish to emphasize that the nature of duties and functions of Panchayat Secretary is vastly different from that of a Dalpati. The duties and functions of Gram Raksha Dal, and for that matter, of the Dalpati is confined to general watch and ward and the emergent duties illustratively mentioned therein. A Gram Raksha Dal seems to be in the nature of a rudimentary police force. It does not seem to have been provided with any teeth. The duties and functions of the Panchayat Secretary are vastly much more than the Dalpati, and the Secretary is indeed the in- charge of the vast responsibilities of the Panchayat. He is indeed the chief executive of the Panchayat. Policing and general administration are two different concepts of governance. We, therefore, cannot conceive of a situation, that a Dalpati by virtue of his position as such can be considered for promotion and appointment as Panchayat Secretary, unless so provided in no uncertain terms by the



Legislature. We have not so far heard of a member of the Indian Police Service to be appointed as the Chief Secretary of a State Government. In view of the position of the Gram Raksha Dal and the Dalpati in the enactment(s) under consideration almost no case at all is made out for appointment of Panchayat Secretary from amongst the Dalpatis. We are, therefore, clearly of the view that in view of the legal position obtaining as on date, a Dalpati can not as a matter of right be considered for appointment as Panchayat Secretary. In that view of the matter, we also reject the contention advanced on behalf of the writ petitioners that it will be open to the State Government to fill up the posts of Panchayat Secretaries from the open market, only if not available from amongst the Dalpatis.

14. In view of the foregoing discussion, we do not wish to examine the question whether or not the Panchayat Secretary is the successor-in-office of Panchayat Sewak.

15. We, however, note the submission of the learned Advocate General that the State Government is promise-bound to appoint 531 Panchayat Secretaries from amongst Dalpatis for the reason that the same is being done in compliance of the orders of the Court which have attained finality. The orders of the learned Single Judges in those writ petitions have not been brought to our notice, let alone those being the subject matter of the present appeal. We are in no position to appreciate the circumstances which persuaded the courts to pass orders to the effect that those petitioners, who were working as Dalpatis,



shall be considered for appointment/promotion as Panchayat Sewaks. It is a possible situation, only to illustrate it in a hypothetical manner, that the State Government may have taken the decision to appoint Panchayat Sewak/Panchayat Secretary from amongst Dalpatis to meet the emergent situation on account of the vast number of vacant posts of Panchayat Sewak/Secretary in the State of Bihar.

16. In view of the mandate of the Constitution, the Act has to be effectively implemented without any loss of time. A workable system had to be put in place. Learned Advocate General has further submitted that the figure of 531 has been arrived because those Dalpatis had approached this court by way of various writ petition and orders have been passed in their favour. Let it be made clear that such an action may not necessarily have our stamp of approval, but we permit the State Government to so appoint/promote them because the various orders of this court have attained finality. We wish to further clarify that only those Dalpatis, not exceeding 531 persons, would be appointed /promoted to the post of Panchayat Sewak / Secretary in different Panchayats of the State whose names have been approved by the Staff Selection Commission. Those of the present writ petitioners who had approached this court earlier, orders have been passed in their favour, and are within 531 Dalpatis, shall be similarly treated. We further clarify that in so far as appointment/promotion of 531 candidates is concerned, the State Government shall not keep in mind the distinction, if any, between Gram Panchayat Sewak/ Panchayat Secretary. The question



whether or not the State Government wishes to make a distinction between the two posts will depend on the Rules that it is required to frame.”

On conspectus of the aforesaid discussion, the claim of the petitioners that benefit to be extended to the Panchayat Sevak by way of absorption as and when the vacancy is created or fallen vacant cannot be accepted as the judgment and order of the Division Bench passed in the case of Subhash Chandra Shukla case (supra), has made it clear that it cannot be extended beyond 531 posts and, in pursuance thereof, the Government has issued letter and direction, from time to time which have been challenged by way of I.A., as the letters and circulars have been issued in tune with the order of the Division Bench, the same cannot be declared to be invalid, null and void. As no post in the West Champaran is available for accommodating extra Dalpatis, hence, no mandamus can be issued to the respondents for adjustment of these petitioners.

Though it has been informed that no post is available but, this Court wishes, the Collector would go for fresh exercise in terms of the letter issued from time to time and if it is found that the petitioners can be accommodated, will take appropriate step keeping in mind for such exercise, posts would be confined to 531 for entire State of Bihar.



With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	07.02.2018
Uploading Date	08.05.2018
Transmission Date	NA

